

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MOSES BELTON

VS.

WAL-MART STORES TEXAS, LLC

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CIVIL ACTION NO.

NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT COURT:

COMES NOW, Defendant WAL-MART STORES TEXAS, LLC (“Walmart”), and files this Notice of Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, removing the above-captioned case from the 127th Judicial District Court, Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division.

**I.
RELEVANT FACTS**

1. Plaintiff Moses Belton (“Plaintiff”) claims he slipped and fell on a slippery floor of a Walmart store located at 3450 FM 1960 Rd., Houston, Texas on December 31, 2020. *See* Pl.’s Orig. Pet. (Ex. A) at 2, ¶ 8. Plaintiff asserts claims of negligence and premises liability, along with a claim for exemplary damages based upon gross negligence and malice. *See id.* at 3–6, and ¶ 27. Plaintiff’s lawsuit expressly alleges that he seeks damages between \$200,000.00 and \$1,000,000.00. *See id.* at 9, ¶ 31.

2. Plaintiff served Walmart with his Original Petition on January 29, 2021.

**II.
THE PARTIES**

3. Plaintiff pleaded that he resides in Potter County, Texas. *See* Ex. A at 1, ¶ 2. As such, Plaintiff is a citizen of the State of Texas for diversity removal purposes.

4. Defendant Wal-Mart Stores Texas, LLC is a Delaware limited liability company, and is an indirectly, wholly-owned subsidiary of Walmart Inc. The sole member of Wal-Mart Stores Texas, L.L.C. is Wal-Mart Real Estate Business Trust. The sole unit holder of Wal-Mart Real Estate Business Trust is Wal-Mart Property Co., which is a wholly owned subsidiary of Wal-Mart Stores East, L.P. Wal-Mart Stores East, L.P. is a Delaware limited partnership, of which WSE Management, L.L.C. is the general partner and WSE Investment, L.L.C. is the limited partner. The sole member of WSE Management, L.L.C. and WSE Investment, L.L.C. is Wal-Mart Stores East, L.L.C. (f/k/a Wal-Mart Stores East, Inc.), whose parent company is Walmart Inc. The principal place of business of Wal-Mart Stores Texas, L.L.C. is Bentonville, Arkansas. Walmart Inc. is a Delaware corporation with its principal place of business in Arkansas. Consequently, Walmart is a citizen of the States of Arkansas and Delaware.

III. BASIS FOR REMOVAL

5. Walmart removes this case to federal court because there is complete diversity of citizenship between the parties and the amount in controversy is greater than \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a).

A. There is complete diversity of citizenship.

6. There is complete diversity of citizenship, *see* 28 U.S.C. §§ 1332, 1441, between the Texas Plaintiff and the out-of-state defendant, Walmart, which is a citizen of Delaware and Arkansas.

B. The amount in controversy requirement is met.

7. Plaintiff's lawsuit expressly pleaded that he seeks monetary relief from her lawsuit between the sums of \$200,000.00 to \$1,000,000.00. *See* Ex. A at 9, ¶ 31. Plaintiff also pleaded for a discovery control level (Level 2) that only applies to cases in which the amount in

controversy exceeds \$100,000.00. *See id.* at ¶ 1; *compare* Tex. R. Civ. P. 190.3, *with* Tex. R. Civ. P. 190.2 *and* Tex. R. Civ. P. 169. Plaintiff also pleaded for economic and non-economic damages, including exemplary damages, that indicate the amount in controversy exceeds \$75,000.00. *See* Ex. A at 6-8. Because Plaintiff expressly pleaded for damages in excess of \$75,000.00, and because it is facially apparent from the face of his lawsuit that the amount in controversy exceeds \$75,000.00, Walmart has satisfied the amount in controversy requirement for removal.

C. This removal is timely and venue is proper.

8. This Notice of Removal is being filed within 30 days of service of Plaintiff's lawsuit on Walmart, and within one year of the commencement of this action. It is therefore timely. Venue is proper in this District under 28 U.S.C. § 1441(a) because the state court where the action is pending is in this District.

D. Procedural requirements for removal are satisfied

9. Upon filing of this Notice of Removal of the cause, Walmart gave written notice of the filing to Plaintiff and his counsel as required by law. A copy of this Notice is also being filed with the Clerk of the Court of the 127th Judicial District Court, Harris County, Texas, where this cause was originally filed. A copy of all processes, pleadings, and orders has been filed separately with this Court pursuant to 28 U.S.C. § 1446(a).

**IV.
CONCLUSION AND PRAYER**

10. Based on the foregoing, Walmart has established that the amount in controversy exceeds \$75,000.00 and that diversity of citizenship exists between the parties in this case. Therefore, removal is proper in this case.

Respectfully submitted,

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**ATTORNEYS FOR DEFENDANT,
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing instrument has been sent to all interested counsel of record in accordance with the TEXAS RULES OF CIVIL PROCEDURE on this 23rd day of February 2021.

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/s/ John A. Ramirez

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